

FILED

JUL - 7 2008

PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

CASSANDRA LYNN HOVLAND,)	CV 06-50-M-JCL
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
CHRIS GARDELLA, individually and)	
as agent for Lincoln County;)	
MARK JACOBSON, individually and)	
as agent for Lincoln County; JOSH)	
HARTH, individually and as agent)	
for Lincoln County; DARRELL)	
ANDERSON, individually and as)	
agent for Lincoln County; LINCOLN)	
COUNTY, a political subdivision)	
of the State of Montana; and JOHN)	
DOES I-X,)	
)	
Defendants.)	
)	

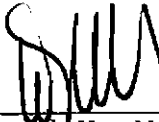
United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on June 12, 2008. The parties did not timely object and so have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error

McDonnell Douglas Corp. v. Commodore Bus. Mach. Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Svrax, 235 F.3d 422, 427 (9th Cir. 2000).

Plaintiff Cassandra Hovland alleges a series of claims arising out of her arrest and subsequent incarceration and prosecution in Lincoln County, Montana. Hovland brings federal and state claims for civil rights violations as well as state common law claims. Defendant Josh Harth has filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) and (6). Judge Lynch recommended granting Harth's motion. Specifically, Judge Lynch determined Hovland "commenced" her action against Harth on October 26, 2007 when she filed her First Amended Complaint because the amended complaint does not relate back to Hovland's original complaint. Based on this filing date and the fact that Hovland's allegations against Harth accrued at the latest when the evidence obtained against her was suppressed, Judge Lynch determined the majority of Hovland's claims against Harth are barred by the statute of limitations. Finally, Judge Lynch determined Hovland had failed to state a claim for which relief could be granted with respect to her claims that were not time-barred. I can find no clear error with Judge Lynch's Findings and Recommendation and therefore adopt them in full.

Accordingly, IT IS HEREBY ORDERED that Defendant Harth's Motion to Dismiss (dkt #91) is GRANTED. All of Hovland's claims against Harth are DISMISSED.

Dated this 7th day of July, 2008.



Donald W. Molloy, District Judge
United States District Court
